

# HOUSE BILL No. 1393

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-3; IC 4-4-3.

**Synopsis:** State economic policy revitalization. Replaces the department of commerce with the department of tourism and community development for purposes of administering programs concerning tourism and community development programs. Transfers economic development duties of the department of commerce to the economic development corporation and energy development responsibilities to the department of environmental management.

**Effective:** July 1, 2003.

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January 15, 2002, read first time and referred to Committee on Ways and Means.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1393

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 4-3-12-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter,  
3 "Indiana small business development corporation" or "corporation"  
4 refers to the corporation established under this section.  
5       (b) The governor may request, on behalf of the state, the  
6 establishment of a private not-for-profit corporation to carry out the  
7 purposes of this chapter. If:  
8       (1) such a corporation is established;  
9       (2) the corporation satisfies the conditions imposed by section 2  
10      of this chapter; and  
11      (3) the governor certifies the corporation;  
12 the corporation may perform the functions provided by section 3 of this  
13 chapter. Before certification by the governor, the corporation must  
14 conduct a public hearing for the purpose of giving all interested parties  
15 an opportunity to review and comment upon the articles of  
16 incorporation, bylaws, and methods of operation of the corporation.  
17 Notice of the hearing must be given at least fourteen (14) days prior to



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the hearing in accordance with IC 5-14-1.5-5(b).

(c) **The corporation is part of the economic development corporation under 4-3-13.7. The articles of incorporation and bylaws of the corporation shall be amended to reflect that the board of the corporation is advisory to the Indiana economic development corporation.**

SECTION 2. IC 4-3-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The articles of incorporation and bylaws of the Indiana small business development corporation must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by encouraging the organization and development of new business enterprises, including technologically oriented enterprises;

(2) the board of directors of the corporation is composed of:

(A) ~~the lieutenant governor or~~ the lieutenant governor's designee;

(B) two (2) persons appointed by the governor from recommendations provided by statewide business organizations;

(C) two (2) persons appointed by the governor to represent local host organizations of the small business development center network; and

(D) four (4) persons appointed by the governor, who must have experience in business, finance, education, entrepreneurship, or technology development;

(3) ~~the governor shall appoint one (1) of the members of the board of directors to serve as chairman of the board at the pleasure of the governor shall elect one (1) of the members to serve as chairperson;~~

(4) the corporation may receive money from any source, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(5) **subject to approval of the economic development corporation,** the corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 3 of this chapter;

(6) any changes in the articles of incorporation or bylaws must be approved by the ~~governor~~ **economic development corporation;**

(7) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

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(8) the annual report shall include detailed information on the structure, operation, and financial status of the corporation;

(9) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

(10) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) Not more than five (5) of the members of the board of directors of the corporation may be members of the same political party.

**(c) The corporation is part of the economic development corporation under 4-3-13.7. The articles of incorporation and bylaws of the corporation shall be amended to reflect that the board of the corporation is advisory to the Indiana economic development corporation.**

SECTION 3. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

~~(A) the governor;~~

~~(B)~~ **(A) a designee of the lieutenant governor;**

~~(C) the chief operating officer of the corporation;~~

~~(D) the chief operating officer of the corporation for Indiana's international future; and~~

~~(E)~~ **(B) additional eight (8) persons appointed by the governor, not more than four (4) of whom may be of the same political party, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;**

(3) the ~~governor shall serve as~~ **members shall elect a chairman**

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of the board of the corporation, and the ~~lieutenant governor shall~~  
~~serve as the members, with the approval of the economic~~  
~~development corporation, shall select an chief executive officer~~  
~~executive director~~ of the corporation;

(4) the ~~governor members~~ shall ~~appoint~~ elect as vice chairman of  
the board a member of the board engaged in private enterprise;

(5) the ~~lieutenant governor executive director of the~~  
~~corporation~~ shall be responsible as ~~chief executive officer~~ for  
overseeing implementation of the state's economic development  
plan as articulated by the corporation and shall oversee the  
activities of the ~~corporation's chief operating officer corporation;~~

(6) the ~~governor may appoint an executive committee composed~~  
~~of members of the board (size and structure of the executive~~  
~~committee shall be set by the articles and bylaws of the~~  
~~corporation);~~

(7) (6) the corporation may receive funds from any source and  
may expend funds for any activities necessary, convenient, or  
expedient to carry out its purposes;

(8) (7) any amendments to the articles of incorporation or bylaws  
of the corporation must be approved by the ~~governor board of the~~  
~~economic development corporation;~~

(9) (8) the corporation shall submit an annual report to the  
governor and to the Indiana general assembly on or before the  
first day of November for each year;

(10) (9) the corporation shall conduct an annual public hearing to  
receive comment from interested parties regarding the annual  
report, and notice of the hearing shall be given at least fourteen  
(14) days prior to the hearing in accordance with  
IC 5-14-1.5-5(b); and

(11) (10) the corporation is subject to an annual audit by the state  
board of accounts, and the corporation shall bear the full costs of  
this audit.

(b) The corporation may perform other acts and things necessary,  
convenient, or expedient to carry out the purposes identified in this  
section, and it has all rights, powers, and privileges granted to  
corporations by IC 23-17 and by common law.

SECTION 4. IC 4-4-3-1 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" shall mean the department of ~~commerce~~ **tourism and**  
**community development** provided for by this chapter.

"Director" shall mean the director of the department.

SECTION 5. IC 4-4-3-2 IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2003]: Sec. 2. There is hereby created a state department to be known as the department of ~~commerce~~ **tourism and community development**. The lieutenant governor, by virtue of his office, shall serve as director of the department and commissioner of agriculture, and he shall receive no additional salary in these capacities.

SECTION 6. IC 4-3-13.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 13.7. Economic Development Corporation**

**Sec 1.** As used in this chapter, "corporation" refers to the economic development corporation established by section 2 of this chapter.

**Sec 2. (a)** There is established a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions, to be known as the economic development corporation.

**(b)** The corporation is composed of the following thirteen (13) members, none of whom may currently be serving as members of the general assembly:

(1) One (1) person appointed by the governor who must be employed in or retired from the private or nonprofit sector.

(2) One (1) person appointed by the lieutenant governor who must be employed in or retired from the private or nonprofit sector.

(3) One (1) person appointed by the speaker of the house of representatives who must be employed in or retired from the private or nonprofit sector.

(4) One (1) person appointed by the minority leader of the house of representatives who must be employed in or retired from the private or nonprofit sector.

(5) One (1) person appointed by the president pro tempore of the senate who must be employed in or retired from the private or nonprofit sector.

(6) One (1) person appointed by the minority leader of the senate who must be employed in or retired from the private or nonprofit sector.

(7) One (1) person appointed by the president of Indiana University who must be employed in or retired from the private or nonprofit sector or academia.

(8) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia.



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(9) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia.

(10) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia.

(11) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia.

(12) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or nonprofit sector or academia.

(13) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia.

**Sec. 3. Appointments to the corporation are for terms of four (4) years. Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.**

**Sec. 4. (a) The members shall elect a chairperson from among the members.**

**(b) The members of the corporation are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the corporation shall receive reimbursement for actual and necessary expenses on the same basis as state employees.**

**Sec. 5. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of the members is necessary for any action to be taken by the corporation. Members may vote by written proxy delivered in advance to any other member who is present at the meeting.**

**Sec. 6. Meetings of the corporation shall be held at the call of the chairperson or whenever any three (3) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the corporation.**

**Sec. 7. (a) The corporation may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.**

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(b) The corporation shall determine qualifications, duties, compensation, and terms of service for persons designated in subsection (a).

(c) Employees of the corporation are not employees of the state.

Sec. 8. The corporation is granted all powers necessary or appropriate to carry out and effectuate the corporation's public and corporate purposes under this chapter.

Sec. 9. The purpose of the corporation is to improve the quality of life for the citizens of Indiana by encouraging:

- (1) the diversification of Indiana's economy;
- (2) the creation of new jobs;
- (3) the retention of existing jobs;
- (4) the growth and modernization of existing industry; and
- (5) the promotion of the state.

Sec. 10. The corporation shall be responsible for overseeing the operations of the Indiana small business development corporation under IC 4-3-12-1 and the Indiana economic development council under IC 4-3-14.

Sec. 11. The corporation may incur debt. Debt incurred by the corporation does not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes.

SECTION 7. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to energy policy are transferred to the department of environmental management, established by IC 13-13-1-1, on July 1, 2003.

(b) The rules adopted by the department of commerce concerning energy policy before July 1, 2003, are considered, after June 30, 2003, rules of the department of environmental management until the department of environmental management adopts replacement rules.

(c) On July 1, 2003, the department of environmental management becomes the owner of all real and personal property relating to energy policy of the department of commerce.

(d) Any fund relating to energy policy under the control or supervision of the department of commerce on June 30, 2003, shall be transferred to the control or supervision of the department of environmental management on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of environmental management



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by this act.

(f) This SECTION expires June 30, 2004.

SECTION 8. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to tourism and community development are transferred to the department of tourism and community development, established by IC 4-4-3-2, as amended by this act, on July 1, 2003.

(b) The rules adopted by the department of commerce concerning tourism and community development before July 1, 2003, are considered, after June 30, 2003, rules of the department of tourism and community development until the department of tourism and community development adopts replacement rules.

(c) On July 1, 2003, the department of tourism and community development becomes the owner of all real and personal property relating to tourism promotion and community development of the department of commerce.

(d) Any fund relating to tourism and community development under the control or supervision of the department of commerce on June 30, 2003, shall be transferred to the control or supervision of the department of tourism and community development on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of tourism and community development by this act.

(f) This SECTION expires June 30, 2004.

SECTION 9. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to economic development in Indiana, except those relating to energy policy or tourism and community development, are transferred to the economic development corporation, established by IC 4-3-13.7, as added by this act, on July 1, 2003.

(b) The rules adopted by the department of commerce, except those related to energy policy and tourism and community development, before July 1, 2003, concerning the duties of the department of commerce are considered, after June 30, 2003, rules of the economic development corporation until the corporation adopts replacement rules.

(c) On July 1, 2003, the Indiana economic development corporation becomes the owner of all real and personal property, except the real and personal property related to energy policy and

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1 tourism and community development, of the department of  
2 commerce.

3 (d) Any fund under the control or supervision of the department  
4 of commerce, except funds related to energy policy and tourism  
5 and community development, on June 30, 2003, is transferred to  
6 the control or supervision of the economic development  
7 corporation on July 1, 2003.

8 (e) The legislative services agency shall prepare legislation for  
9 introduction in the 2004 regular session of the general assembly to  
10 organize and correct statutes affected by the transfer of  
11 responsibilities to the economic development corporation by this  
12 act.

13 (f) This SECTION expires June 30, 2004.

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